IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVN.APPLICATION NO.322 OF 2002

Ramvilas Shivnarayan Oza ... Applicant

versus

Rameshchandra Mangilal Oza & ors.... Respondents

...

Mr.V.V. Purwant, for the Applicant.

Mr.D.R. More, A.P.P., for the Respondent State.

...

CORAM : A.M.KHANWILKAR,J.

1st March 2005

P.C.:

. Heard Counsel for the Applicant. In my opinion, the view taken by the lower Court is a possible view. If it is so, not a case for exercising revisional jurisdiction. Counsel for the Applicant, however, contends that the lower Court has considered the prosecution case and evidence very casually by brushing it aside on the solitary reason of delay in lodging F.I.R.

This submission clearly overlooks the basis on which the Court has proceeded to examine the matter. Indeed, delay in lodging the F.I.R. is one factor, but that is not the only factor, which has weighed with the Court. The Court has considered the defence version and has taken the view that the defence case seems to be probable. In other words, the defence has established its case by preponderence of probabilities, which was sufficient to record acquittal and give benefit of doubt. The argument that the deceased died within one and half years from the marriage and, therefore, legal presumption arises clearly overlooks that the defence has rebutted the legal presumption by adducing positive evidence and which has weighed with the Court as trustworthy. If it is so, not a case for revision. Dismissed.

(A.M.KHANWILKAR,J.)